

SENATE BILL 238

Unofficial Copy  
C4

2004 Regular Session  
4r1493  
CF 4r2207

---

By: **Senator Astle**  
Introduced and read first time: January 29, 2004  
Assigned to: Finance

---

Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: February 25, 2004

---

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Insurance - Surplus Lines Brokers - Policy and Inspection Fees**

3 FOR the purpose of altering certain authority of certain surplus lines brokers to  
4 charge certain policy fees on certain policies procured by certain licensed  
5 producers to whom the surplus lines broker pays a commission; specifying a  
6 certain limit on the policy fee that a certain surplus lines broker may charge on  
7 a policy issued by an authorized insurer that was procured by ~~a licensed~~  
8 ~~producer~~ certain licensed producers to whom the surplus lines broker pays a  
9 commission; requiring the policy fee to be reasonably related to the cost of  
10 underwriting, issuing, processing, and servicing the policy by the surplus lines  
11 broker for the authorized insurer; authorizing a certain surplus lines broker to  
12 recoup from a prospective insured the actual cost of an inspection required for  
13 the placement of the insurance with an authorized insurer under certain  
14 circumstances; specifying that only one inspection fee may be charged to recoup  
15 the actual cost of an inspection for each policy or certificate of coverage issued by  
16 an authorized insurer; specifying that only one policy fee may be charged for  
17 each policy or certificate of coverage issued by an authorized insurer; and  
18 generally relating to policy and inspection fees charged by surplus lines brokers.

19 BY repealing and reenacting, with amendments,  
20 Article - Insurance  
21 Section 27-216(d)  
22 Annotated Code of Maryland  
23 (2002 Replacement Volume and 2003 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
25 MARYLAND, That the Laws of Maryland read as follows:

1

**Article - Insurance**

2 27-216.

3 (d) (1) Notwithstanding subsection (a) of this section, a surplus lines broker  
 4 that holds a certificate of qualification under Title 3, Subtitle 3 of this article may  
 5 charge a reasonable policy fee ON A POLICY ISSUED BY A SURPLUS LINES INSURER  
 6 not exceeding:

7 (i) \$100 on each personal lines policy procured by a licensed  
 8 insurance producer NOT AFFILIATED OR CONTROLLED BY THE SURPLUS LINES  
 9 BROKER AND to whom the surplus lines broker pays a commission; or

10 (ii) \$250 on each commercial lines policy procured by a licensed  
 11 insurance producer NOT AFFILIATED OR CONTROLLED BY THE SURPLUS LINES  
 12 BROKER AND to whom the surplus lines broker pays a commission.

13 (2) A SURPLUS LINES BROKER THAT HOLDS A CERTIFICATE OF  
 14 QUALIFICATION UNDER TITLE 3, SUBTITLE 3 OF THIS ARTICLE AND A LICENSE AS AN  
 15 INSURANCE PRODUCER UNDER TITLE 10, SUBTITLE 1 OF THIS ARTICLE MAY CHARGE  
 16 A REASONABLE POLICY FEE ON A POLICY ISSUED BY AN AUTHORIZED INSURER NOT  
 17 EXCEEDING:

18 ~~(I) \$100 ON EACH PERSONAL LINES POLICY PROCURED BY A~~  
 19 ~~LICENSED INSURANCE PRODUCER TO WHOM THE SURPLUS LINES BROKER PAYS A~~  
 20 ~~COMMISSION; OR~~

21 ~~(II) \$250 ON EACH COMMERCIAL LINES POLICY PROCURED BY A~~  
 22 ~~LICENSED INSURANCE PRODUCER NOT AFFILIATED OR CONTROLLED BY THE~~  
 23 ~~SURPLUS LINES BROKER AND TO WHOM THE SURPLUS LINES BROKER PAYS A~~  
 24 ~~COMMISSION.~~

25 [(2)] (3) The policy fee charged in accordance with this subsection must  
 26 be reasonably related to the cost of underwriting, issuing, processing, and servicing  
 27 the policy by the surplus lines broker for the surplus lines insurer OR THE  
 28 AUTHORIZED INSURER.

29 [(3)] (4) Notwithstanding subsection (a) of this section, a surplus lines  
 30 broker that holds a certificate of qualification under Title 3, Subtitle 3 of this article  
 31 may recoup from the prospective insured the actual cost of an inspection required for  
 32 the placement of surplus lines insurance WITH A SURPLUS LINES INSURER if:

33 (i) the inspection is required by the surplus lines insurer;

34 (ii) the cost of the inspection is actually incurred by the surplus  
 35 lines broker and not retained by the surplus lines broker; and

36 (iii) the cost of the inspection is documented and verifiable.

1 (5) A SURPLUS LINES BROKER THAT HOLDS A CERTIFICATE OF  
2 QUALIFICATION UNDER TITLE 3, SUBTITLE 3 OF THIS ARTICLE AND A LICENSE AS AN  
3 INSURANCE PRODUCER UNDER TITLE 10, SUBTITLE 1 OF THIS ARTICLE MAY RECOUP  
4 FROM THE PROSPECTIVE INSURED THE ACTUAL COST OF AN INSPECTION REQUIRED  
5 FOR THE PLACEMENT OF INSURANCE WITH AN AUTHORIZED INSURER IF:

6 (I) THE INSPECTION IS REQUIRED BY THE AUTHORIZED INSURER;

7 (II) THE COST OF THE INSPECTION IS ACTUALLY INCURRED BY THE  
8 SURPLUS LINES BROKER AND NOT RETAINED BY THE SURPLUS LINES BROKER; AND

9 (III) THE COST OF THE INSPECTION IS DOCUMENTED AND  
10 VERIFIABLE.

11 [(4)] (6) Regardless of the number of insurers participating on a risk:

12 (i) only one inspection fee may be charged to recoup the actual cost  
13 of an inspection under paragraph [(3)] (4) OR (5) of this subsection for each policy or  
14 certificate of coverage; and

15 (ii) only one policy fee may be charged under paragraph (1) OR (2) of  
16 this subsection for each policy or certificate of coverage.

17 [(5)] (7) On a form approved by the Commissioner, the surplus lines  
18 broker shall:

19 (i) make a clear and conspicuous written disclosure of:

20 1. any inspection fee;

21 2. the total amount of the policy fee;

22 3. the premium tax on the policy;

23 4. any financial interest in the person performing the  
24 inspection, if applicable; and

25 5. whether the surplus lines broker will receive  
26 compensation from the person that performs the inspection; and

27 (ii) notify the prospective insured of the option to obtain the  
28 inspection from another person who meets the requirements of or is approved by the  
29 surplus lines insurer.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
31 October 1, 2004.

